



Enterprise Management Incentive

An introduction to EMI Schemes

Introduction to EMI schemes

The EMI Scheme began in 2000 but has since evolved and been improved. It is an HMRC-approved employee share scheme where the business grants share options to key employees. Employers use it to reward their most productive employees and incentivise workers across the company. It is also a great way of retaining key staff.

An employee can become a shareholder in the company, which can make them feel as though they are receiving a reward. Yet, the employer will not need to pay extra money to implement the scheme. As such, EMI schemes are ideal for companies that need to retain their best employees but lack the funds to pay higher salaries and/or bonuses needed to avoid losing staff.

What's an option?

In the context of an EMI scheme, options give employees the right to purchase company shares in the future. The employer and employee will agree on and set the price of these shares today, and that will be the price the employee pays.

If the value of the shares rises over time, the employee can exercise their option at that point (i.e. purchase the shares) and subsequently sell them at the higher market value. This is a very rewarding outcome for the employee.

When the employer decides to grant the option to the employee, the value of the shares at that point is agreed with HMRC. One benefit of this is it helps to settle any concerns or disputes down the line that may arise regarding the initial value of the shares.

In terms of the structure and terms which the employer can set for the share options, there is a lot of flexibility. You could set a time for when staff can exercise their options, or give them the option to exercise them in small amounts over time.

You could incorporate employee incentives, such as ensuring that certain performance targets are met for their options to apply. If you are interested in setting up an EMI scheme, we can advise you on drafting the terms to suit your business's needs.

Notice in the definition of an option that an employee has the right to exercise the option. This means that even if you set a time during which the option can or should be exercised, the employee is not obligated and can still decide whether to exercise their option within that time frame. As soon as this time has passed, if the option has not been exercised it no longer applies (yet you will have successfully retained a key member of staff for all those years!)

How does this affect the tax bill?

For unapproved shares, the tax is calculated the same way as for salaries and bonuses. HMRC approves EMI schemes, so if the price of the shares is set at market value, there will be no tax to pay when the options are granted or exercised.

The major tax advantage to the employee comes when they decide to sell their shares. Without an EMI scheme, the employee may be required to pay up to 45% PAYE on the sale of the shares. Under the EMI Scheme, Capital Gains Tax applies at just 10%.

The business can also save on its corporate tax bill when members of staff exercise their options. The tax calculation would be made in the accounting year when the options were exercised. However, there are conditions which need to be met first, so we can advise you on whether this would apply to your business.

The costs of setting up and implementing your EMI Scheme can be included as expenses when calculating the amount of corporate tax to pay, so this would also lower your tax bill.

Who qualifies & what requirements are there?

One requirement for companies is that they must have a 'permanent establishment' in the UK. Or in other words, your business need not have started in the UK. It need not be resident in the UK. But according to HMRC, there needs to be a UK site which is considered 'a fixed place of business', or you may have an independent agent in the UK. If you have questions about this, please get in touch with us.

Under the EMI Scheme rules, an employee has a maximum of 10 years to exercise their option AND remain eligible for the scheme's tax advantages. However, the employer can choose to set a time frame of less than 10 years if they wish.

In this case of an employee's death, the administrators (or executors for those with a will) have up to 1 year from the date of the employee's death to exercise the options.

A company acquisition can take place even if options under the EMI Scheme have not yet been exercised. In this situation, it is still possible for the employee to be offered replacement options that meet the conditions for an EMI Scheme. However, the maximum 10-year limit mentioned earlier would still be based on the options available before the acquisition. You must seek professional advice if you believe your company is subject to a possible takeover.

Investment, financial activities, legal services and property development, amongst others, are excluded from EMI Schemes. This may sound simple, but a trading company that innocently decides to use some of its surplus cash balances on investment activities can be enough. It depends on whether 20% or more of the company's activities are 'excluded trades'. What's more, a business consisting of a group of companies will be considered as one when checking for excluded activities and at least one of these companies must dedicate all of its work to qualifying trades.

Other aspects to consider

There are additional points not relating to the conditions worth considering, and we can advise you on these where necessary. For example, despite your efforts to retain key staff, one or more of these staff may decide to leave employment during the period of the EMI Scheme. Depending on your circumstances, we can get around this problem. Please let us know if this concerns you or, equally, if you have any other questions.

The employer must inform HMRC whenever it grants options. This needs to be done by 6 July, following the year-end of the tax year in which the options were granted. If it fails to tell HMRC in this time, the options will become unapproved and thus will be subject to PAYE charges in the normal way. This does not mean that HMRC controls the EMI Scheme – this is still designed and implemented by the business.

You will need to complete an EMI Scheme annual return every year. This should be submitted no later than 6th July each year.

We'll remove the complexity

At Edwards, we have a structured procedure in place for anyone who wishes to set up an EMI Scheme. Once you fill in our due diligence documents at the beginning, we then complete the usual tasks with HMRC. Following this, we arrange to meet you and the business to tailor the scheme to your needs. We then go straight into the exciting part of designing and implementing your EMI scheme.

We have extensive experience of implementing EMI Schemes. So if you would like to know more for your company, please get in touch.ase get in touch.





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Directors and Senior Staff are the principal point of contact and endeavour to be readily available to attend to enquiries, thereby developing strong personal relationships built upon expertise, trust and efficient service.

Further information on the contents of this guide and any other matters can be obtained by speaking to the contacts named.

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